

5

GARY E. WEISS (STATE BAR NO. 122962)
gweiss@orrick.com
I. NEEL CHATTERJEE (STATE BAR NO. 173985)
nchatterjee@orrick.com
JULIO C. AVALOS (STATE BAR NO. 255350)
javalos@orrick.com
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: +1-650-614-7400
Facsimile: +1-650-614-7401

WARRINGTON S. PARKER (STATE BAR NO. 148003)
wparker@orrick.com
ORRICK, HERRINGTON & SUTCLIFFE LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
Telephone: +1-415-773-5700
Facsimile: +1-415-773-5759

Attorneys for Plaintiff
FACEBOOK, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FACEBOOK, INC.,

Plaintiff,

v.

STUDIVZ LTD., HOTLZBRINCK
NETWORKS GmbH, HOLTZBRINCK
VENTURES GmbH, and DOES 1-25,

Defendants.

Case No. 5:08-cv-03468 JF

**FACEBOOK, INC.'S FIRST SET OF
SPECIAL INTERROGATORIES TO
DEFENDANT HOTLZBRINCK
NETWORKS GmbH RELATING TO
PERSONAL JURISDICTION**

Pursuant to Federal Rule of Civil Procedure 33, Plaintiff Facebook, Inc. ("Facebook") hereby propounds the following interrogatories to be answered, under oath, by an officer or agent of Defendant Holtzbrinck Networks GmbH, within 30 days after service of these interrogatories, or whatever date is ordered by the Court, whichever is sooner, as required by Federal Rule of

2 **DEFINITIONS**

3 A. "ANY" shall be understood to include and encompass "ALL." As used herein, the
4 singular shall always include the plural and the present tense shall also include the past tense.
5 The words "AND" as well as "OR" shall be construed disjunctively or conjunctively as necessary
6 to bring within the scope of this request all documents or things that might otherwise be construed
7 to be outside its scope.

8 B. The terms "PERSON" and "PERSONS" mean both natural persons and legal
9 entities, including without limitation, corporations, companies, firms, partnerships, joint ventures,
10 proprietorships, associations, and governmental bodies or agencies. Unless noted otherwise,
11 references to any person, entity or party herein include its, his, or her agents, attorneys,
12 employees, employers, officers, directors, or others acting on or purporting to act on behalf of
13 said person, entity, or party.

14 C. "EVIDENCE" or any variant thereof, including but not limited to
15 "EVIDENCING," when used in connection with any document, shall be understood to apply if
16 the document directly or indirectly mentions, discusses, constitutes, concerns, supports
17 contradicts, relates to, refers to, or in any other way deals with the subject matter described in the
18 request in which the term appears.

19 D. "REFER TO" or "RELATE TO" as used herein mean pertaining to, relevant to,
20 material to, evidencing, affecting, comprising, discussing, dealing with, considering or otherwise
21 concerning in any manner whatsoever the subject matter of the inquiry.

22 E. The term "DOCUMENT" means the original and each non-identical copy of ANY
23 written, printed, typed, recorded, computerized, electronic, taped, graphic, or other matter, in
24 whatever form, whether in final or draft, including but not limited to, ALL materials that
25 constitute "writings" or "recordings" or "photographs" within the broadest meaning of the term
26 "Writing" as defined in California Code of Evidence sections 250, 255, and 260, AND ALL
27 materials that constitute "documents" within the broadest meaning of Rule 34 of the Federal
28 Rules of Civil Procedure. DOCUMENT includes, without limitation, printed matter, electronic

1 mail, materials stored on computer hard drives, diskettes, tapes, ANY other computer media,
2 recorded voice mail messages and ANY other information stored magnetically, optically or
3 electronically.

4 F. "COMMUNICATION" as used herein means any contact, oral or documentary,
5 formal or informal, at any place or under any circumstances whatsoever whereby information of
6 any nature is transmitted or transferred, including without limitation, any note, memorandum or
7 other record thereof, or a single person seeing or hearing any information by any means.

8 G. "COMMUNICATION" as used herein means any contact, oral or documentary,
9 formal or informal, at any place or under any circumstances whatsoever whereby information of
10 any nature is transmitted or transferred, including without limitation, any note, memorandum or
11 other record thereof, or a single person seeing or hearing any information by any means.

12 H. "HOTLZBRINCK NETWORKS GmbH," "YOU," "YOUR," means defendant
13 Verlagsgruppe Georg Von Holtzbrinck GmbH and its directors, officers, parents, subsidiaries,
14 predecessors, successors, assigns, agents, servants, employees, investigators, attorneys, AND
15 ALL other persons and entities representing it acting on its behalf, OR purporting to act on its
16 behalf, including without limitation, Ehasan Dariani and Dennis Bemann.

17 I. "FACEBOOK" means, without limitation, Facebook, Inc. (formerly
18 TheFacebook, Inc.), its past and present parents, subsidiaries, affiliates, predecessors, divisions,
19 officers, directors, trustees, employees, staff members, agents, counsel, representatives,
20 consultants, AND ALL PERSONS acting or purporting to act on its behalf.

21 J. "USERS OF STUDIVZ" means, without limitation, PERSONS registered to use
22 the services provided by STUDIVZ, including without limitation, those provided at the
23 www.studivz.net website, the www.meinvz.net website, the www.schuelervz.net, the
24 www.studiqq.fr website, www.studiln.it website, the www.estudiln.net website, the
25 www.studentix.pl website and the www.schuelervz.net website.

26 K. "USERS OF FACEBOOK" means, without limitation, PERSONS registered to
27 use the services provided by FACEBOOK at www.facebook.com and, previously,
28 www.thefacebook.com.

INSTRUCTIONS

1
2 1. If YOU object to any of the interrogatories herein on privilege grounds, state the
3 privilege claimed and describe the facts giving rise to the privilege claim in sufficient detail so
4 that the Court can adjudicate the validity of the claim.

5 2. “IDENTIFY,” when used with respect to a natural person, means state the name,
6 current telephone number and current home or business address of the person(s). If current
7 information is not available, please provide the last available information regarding the person(s).

8 3. “IDENTIFY,” and all variants including “IDENTITY” when used with respect to
9 any entity, means state the name, place and date of incorporation or organization, principal place
10 of business, and the identity of all natural persons having knowledge of the matter with respect to
11 which it is named in an answer to an interrogatory.

12 4. To “IDENTIFY” a document means:

13 a. to refer to the document’s identification or exhibit number if the document
14 has been previously produced or used in discovery or to attach a true copy of the document to the
15 interrogatory answers and to state the document’s title and date, or if unknown, the approximate
16 date of creation;

17 b. to identify each person who signed or participated in the preparation of the
18 document;

19 c. to identify each person who is an addressee, including each person to
20 whom a copy was to be sent or who received a copy of the document;

21 d. to summarize the subject matter of the document;

22 e. to provide the present location of the document and the identity of the
23 custodian of the original and each copy thereof; and

24 f. if the document no longer exists, to give the date on which it was
25 destroyed, the identity of the person who destroyed it, and the person under whose authority it
26 was destroyed.

5. "IDENTIFY" a circumstance, occurrence or event, means to describe it in detail, including date, time, surrounding circumstances, PERSONS involved OR present, reasons, effects, results, where AND how it occurred, AND what occurred.

6. In answering the following interrogatories, YOU are required to provide ALL information that is available to YOU within YOUR control, including information in the possession of YOUR attorneys, investigators, employees, agents, representatives, and guardians or any other person acting on YOUR behalf, and not merely information from YOUR own personal knowledge.

7. If YOU cannot answer any interrogatory in full, answer to the extent YOU are able to do so, state the reason for YOUR inability to answer further, and state the knowledge or information available to YOU concerning the unanswered portion.

8. If YOU object to any of the interrogatories, YOU must state the grounds for any objection(s). If YOU object to only part of an interrogatory, YOU must state the objection and the grounds for any objection(s) and respond to the remainder of the interrogatory.

9. Each answer should be preceded by a reiteration of the full interrogatory to which it responds.

10. For each interrogatory, IDENTIFY ALL persons who provided information or otherwise assisted in preparing YOUR response.

INTERROGATORIES

INTERROGATORY NO. 1:

Describe in detail AND IDENTIFY ALL contacts AND COMMUNICATIONS YOU have had with PERSONS (including without limitation, USERS OF STUDIVZ AND USERS OF FACEBOOK) currently OR formerly residing OR domiciled in California. In doing so, IDENTIFY the PERSONS contacted, the location AND time where any such contact OR event occurred, AND the subject matter of the contact OR COMMUNICATION.

INTERROGATORY NO. 2:

Describe in detail AND IDENTIFY ALL contacts AND COMMUNICATIONS YOU have had with businesses (including without limitation, Internet search engines providers such as

1 Google Inc. AND Yahoo! Inc., server providers, advertising agencies, advertisers, Internet service
2 providers, computer equipment providers, YOUR licensors AND licensees) currently OR
3 formerly located, licensed, based, OR incorporated in California. In doing so, IDENTIFY the
4 PERSONS contacted, the location AND time where any such contact OR event occurred, AND
5 the subject matter of the contact OR COMMUNICATION.

6 **INTERROGATORY NO. 3:**

7 Describe in detail AND IDENTIFY ALL contacts AND COMMUNICATIONS YOU
8 have had with universities AND colleges located in California, including without limitation,
9 letters, emails, advertising materials, business solicitations, business contacts, telephonic
10 conversations, facsimile transmissions. In doing so, IDENTIFY the PERSONS contacted, the
11 location AND time where any such contact OR event occurred, AND the subject matter of the
12 contact OR COMMUNICATION.

13 **INTERROGATORY NO. 4:**

14 Describe in detail AND IDENTIFY ALL of YOUR trips to California. In doing so,
15 IDENTIFY the PERSONS contacted, the location AND time where any such contact OR event
16 occurred, AND the subject matter of the contact OR COMMUNICATION.

17 **INTERROGATORY NO. 5:**

18 IDENTIFY, on a monthly basis, how many USERS OF STUDIVZ have been registered at
19 the www.studivz.net website, the www.meinvz.net website, the www.studiqq.fr website,
20 www.studiln.it website, the www.estudiln.net website, the www.studentix.pl website AND the
21 www.schuelervz.net website since October 2005, AND how many of those USERS OF
22 STUDIVZ are residents of, OR PERSONS domiciled in, California.

23 **INTERROGATORY NO. 6:**

24 IDENTIFY the number AND amount of accounts receivable owed YOU by PERSONS
25 that, OR who, are California residents OR PERSONS domiciled in California. In doing so,
26 IDENTIFY the goods AND services for which the individual accounts receivable are owed.

27 **INTERROGATORY NO. 7:**

28 IDENTIFY ALL instances in which YOU have been in California, including without

1 limitation, business, trips, OR recreational trips; living, residing OR domiciling in California;
2 AND flying OR driving to OR through California. In doing so, IDENTIFY the dates of ALL
3 occurrences AND the length of the stay in California.

4 **INTERROGATORY NO. 8:**

5 IDENTIFY ALL of YOUR current AND former personal OR real property currently OR
6 previously located in California.

7 **INTERROGATORY NO. 9:**

8 IDENTIFY ALL contracts AND agreements involving YOU in which California law
9 governs AND/OR in which the parties to the contract OR agreement agreed as to the jurisdiction
10 of California state courts AND/OR United States federal courts located in California.

11 **INTERROGATORY NO. 10:**

12 IDENTIFY occurrences when YOU AND/OR ANY PERSON on YOUR behalf,
13 including without limitation, Ehssan Dariani and Dennis Bemman, accessed the website,
14 www.facebook.com OR www.thefacebook.com, AND the purposes of each access, including
15 without limitation, ANY COMMUNICATIONS that RELATE TO ANY of the occurrences AND
16 IDENTIFY the USER OF FACEBOOK OR registrant accounts OR email addresses used to
17 access the facebook.com website.

18 **INTERROGATORY NO. 11:**

19 IDENTIFY ALL of YOUR licenses OR registrations regarding the ability to do business
20 in California.

21 **INTERROGATORY NO. 12:**

22 IDENTIFY the first date YOU knew OR believed that FACEBOOK, its servers, facilities,
23 offices, OR personnel were located in California.

24 **INTERROGATORY NO. 13:**

25 IDENTIFY the services provided through the www.studivz.net website, the
26 www.meinvz.net website, the www.studiqq.fr website, www.studiln.it website, the
27 www.estudiln.net website, the www.studentix.pl website AND the www.schuelervz.net website
28 to USERS OF STUDIVZ, including without limitation, how the services are provided.

1 **INTERROGATORY NO. 14:**

2 IDENTIFY ALL USERS OF FACEBOOK employed by OR formerly employed by YOU,
3 including including without limitation, any PERSONS who are OR were full-time or part-time
4 employees, independent contractor or agents of YOU, AND their respective email addresses.

5 **INTERROGATORY NO. 15:**

6 IDENTIFY ALL PERSONS responsible in any manner for the design, programming and
7 maintenance of the www.studivz.net website, including without limitation, location of the
8 PERSON, job descriptions, authorities, dates in these positions, duties, AND responsibilities.

9 **INTERROGATORY NO. 16:**

10 IDENTIFY ALL PERSONS responsible in any manner for the design, programming and
11 maintenance of the www.meinvz.net website, the www.studiqq.fr website, www.studiln.it
12 website, the www.estudiln.net website, the www.studentix.pl website AND the
13 www.schuelervz.net website, including without limitation, location of the PERSON, job
14 descriptions, authorities, dates in these positions, duties, AND responsibilities.

15 **INTERROGATORY NO. 17:**

16 IDENTIFY current AND former directors, officers, employees, AND agents of
17 STUDIVZ, including without limitation, dates in these positions, duties, job descriptions,
18 authorities, AND responsibilities.

19 **INTERROGATORY NO. 18:**

20 IDENTIFY ALL of YOUR advertising, promotions AND marketing activities directed, at
21 least in part, at California residents.

22 **INTERROGATORY NO. 19:**

23 IDENTIFY ALL of YOUR business relationships with, OR financial interests in,
24 businesses currently OR formerly incorporated, licensed, located, based, OR with facilities OR
25 offices located in California, including without limitation, the nature of each relationship, the
26 IDENTITY of each business, AND whether each business is incorporated, licensed, located,
27 based OR has facilities OR offices located in California.

28

1 **INTERROGATORY NO. 20:**

2 IDENTIFY ALL reasons why defending this lawsuit in California would burden YOU.

3 **INTERROGATORY NO. 21:**

4 IDENTIFY the ownership of HOTLZBRINCK NETWORKS GmbH, including without
5 limitation, PERSON'S names, amounts they contributed OR invested, AND their percent
6 ownership OR control (including without limitation, Capital Contributions, Percent Interest,
7 Equity Units, Non-Equity Units, Voting Units) on a by-PERSON basis.

8 **INTERROGATORY NO. 22:**


9 IDENTIFY the location of YOUR offices, facilities, server/equipment locations.

10 **INTERROGATORY NO. 23:**

11 IDENTIFY ALL universities, colleges AND institutes of higher learning located in
12 California at which STUDIVZ provides OR provided services including without limitation,
13 access to the www.studivz.net website, the www.meinvz.net website, the www.studiqq.fr
14 website, www.studiln.it website, the www.estudiln.net website, the www.studentix.pl website
15 AND the www.schuelervz.net website, including without limitation University of California (all
16 campuses), California State University (all campuses), as well as the USERS OF STUDIVZ using
17 email domains (*e.g.*, name@stanford.edu) from those universities, colleges, high schools, AND
18 institutes of higher learning.

19
20 Dated: October 14, 2008

ORRICK, HERRINGTON & SUTCLIFFE LLP

21
22 
23 WARRINGTON S. PARKER III
24 Attorneys for Plaintiff
25 FACEBOOK, INC.
26
27
28

1 **PROOF OF SERVICE**

2 I am a resident of the State of California and over the age of eighteen years, and
3 not a party to the within action. On October 14, 2008, I served the within document(s):
4

5 **FACEBOOK, INC.'S FIRST SET OF SPECIAL INTERROGATORIES TO**
6 **DEFENDANT HOTLZBRINCK NETWORKS GmbH RELATING TO PERSONAL**
7 **JURISDICTION**

8 By placing the document(s) listed above in a sealed envelope with postage thereon
9 fully prepaid, in the United States mail at San Francisco, California addressed as set
10 forth below on October 14, 2008.

11 By transmitting via facsimile the document(s) listed above to the fax number(s) set
12 forth below before 5:00 p.m. on October 14, 2008.

13 By causing personal delivery by WESTERN MESSENGER of the document(s)
14 listed above to the person(s) at the address(es) set forth below.

15 By personally delivering the document(s) listed above to the person(s) at the
16 address(es) set forth below.

17 **X** By placing a true and correct copy of the document(s) in a Federal Express envelope
18 addressed as set forth below and then sealing the envelope, affixing a pre-paid
19 Federal Express air bill, and causing the envelope to be delivered to a Federal
20 Express agent for delivery.

21 **Stephen S. Smith**
22 **William Mielke Walker**
23 **GREENBERG GLUSKER FIELDS**
24 **CLAMAN & MACHTINGER LLP**
25 1900 Avenue of the Stars
26 Los Angeles , CA 90067
27 Tel: 310-553-3610
28 Fax: 310-553-0687
email: wwalker@greenbergglusker.com

Attorney for Defendants
STUDIVZ LTD., HOLTZBRINCK
NETWORKS GmbH, HOTZBRINCK
VENTURES GmbH

Executed on October 14, 2008, at San Francisco, California.

I declare under penalty of perjury under the laws of the United States that the
foregoing is true and correct.

Anne Devlin